

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GENAY L. AMERSON, an individual,

Case No. 2:24-cv-01589-RFB-EJY

Plaintiff,

V.

LAS VEGAS COLLEGE, MIKHAIL EDUCATION CORPORATION, a domestic corporation; PETER MIKHAIL, PRESIDENT OF MIKHAIL EDUCATION CORPORATION; DOES 1 through 10; ROE Entities 11 through 20, inclusive jointly and severally.

Defendants.

ORDER

Pending before the Court is Plaintiff's Second Motion to Compel Discovery Subpoena Duces Tecum. ECF No. 35. An order granting a motion to compel presupposes the party seeking the order was denied information to which he/she is entitled through discovery in a civil matter. Here, a review of the documents attached to Plaintiff's instant Motion show Plaintiff incorporated her subpoena into a revised Freedom of Information Act ("FOIA") request that the United States Department of Education responded to on January 8, 2025 producing a total of 224 pages of documents. ECF Nos. 35-1 at 2, 35-3 at 2, 35-8 at 2, 5. Further, the Court finds the Department of Education stated it would respond to Plaintiff's request on a rolling basis and more documents will be provided to Plaintiff once approved for release. ECF No. 35-1 at 2 (dated January 8, 2025). Thus, there is reason to believe additional documents may be produced.

The Office of Civil Rights, Department of Education also explained to Plaintiff that there is no duty to create documents in response to a party's FOIA request. This is true. 34 C.F.R. § 5.12. The denial of an inventory list and change in format is not a basis to compel. What is unclear, and is difficult to decipher, is what Plaintiff has received and what it is she is seeking that she has not yet received. It is also unclear when additional documents, if any, will be produced.

1 Accordingly, IT IS HEREBY ORDERED that a Zoom hearing is set to discuss the status of
2 Plaintiff's Freedom of Information Act requests.

3 IT IS FURTHER ORDERED that Plaintiff and Office of Civil Rights, U.S. Department of
4 Education counsel, as well as an appropriate representative of the Department, if desired, **must**
5 appear by Zoom for a hearing to discuss the status of the response to Plaintiff's Freedom of
6 Information Act requests. The hearing will take place on **Tuesday, February 18, 2025 at 9:30 a.m.**

7 The parties must contact Jeff Miller, Courtroom Deputy for the undersigned Magistrate
8 Judge, by **12:00 p.m. on February 13, 2025, at Jeff_Miller@nvd.uscourts.gov**, and provide the
9 email addresses for their respective participants. The Courtroom Deputy will email all participants
10 with the Zoom link.

11 IT IS FURTHER ORDERED that to ensure receipt of this Order, the Clerk of Court must
12 send a copy of this Order to Counsel for the Office of Civil Rights, U.S. Department of Education
13 by electronic and U.S. Mail as follows:

14 Emailed to: Monique.Malson@ed.gov; ocr.seattle@ed.gov; and margot.stevens@ed.gov

15 By U.S. Mail to:

16 Monique Malson
17 Office of Civil Rights
18 U.S. Department of Education
19 915 2nd Ave, Suite 3310
20 Seattle, WA 98174

21 General Counsel
22 Office of Civil Rights
23 U.S. Department of Education
24 915 2nd Ave, Suite 3310
25 Seattle, WA 98174

26 Dated this 27th day of January, 2025.

27 
28 ELAYNA J. YOUCHAH
29 UNITED STATES MAGISTRATE JUDGE